

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF OKLAHOMA**

IN RE:	}	
GARRETT, ANNETTA SUE	}	Case No. 12-81350
<i>Debtor(s).</i>	}	Chapter 7

**MOTION TO APPROVE SALE OF PROPERTY OF THE ESTATE AT PRIVATE SALE,
FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS,
AND NOTICE OF PROPOSED SALE**

COMES NOW Gerald R. Miller, Trustee, by and through his attorney, Gerald R. Miller, and for his Motion to Approve Sale of Property of the Estate at Private Sale, Free and Clear of all Liens, Claims, Encumbrances and Interests, states as follows:

1. The debtor filed Chapter 7 bankruptcy on September 19, 2012, in the Eastern District of Oklahoma. At the time the bankruptcy petition was filed, the following described property was to be distributed to the Debtor pursuant to the Luther J. Hammons Trust dated 2/27/97 and as amended 2/3/05:

Undivided one-half interest in a tract of property located in the S/2 of the SW/4 of the NW/4 of Section 2, Township 17 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma, more particularly described as follows, to wit: Beginning at the NW corner of the SW/4 of the SW/4 of the NW/4 of said Section 2; thence East 556 feet to the Point of Beginning; thence East 296 feet; thence South 296 feet; thence West 296 feet; thence North 296 feet to the Point of Beginning; a/k/a 13235 N. 536 Road, Tahlequah, OK

(hereinafter referred to as "Property ")

The distribution of this Property to the Debtor was further subject to the life estate of Anna Hammons. Anna Hammons died on December 13, 2012, making the Debtor's interest in the Property an asset of the bankruptcy estate pursuant to 11 § 541(a)(5)(A).

2. Diana "Kaye" Hammons Callaway (hereinafter referred to as "Callaway") made an offer to purchase the above described Property for the sum of \$45,000.00, which was approved by this Court's order of August 15, 2013. However, Callaway was unable to complete the sale and has rescinded her offer.

3. Jerry E. Hammons has made an offer to purchase the above described Property for the sum of \$45,000.00. The Trustee believes this offer to be in the best interest of the estate. Jerry E. Hammons has filed a Proof of Claim in this case in the amount of \$30,602.60 based upon a Statement of Judgment filed in

the Office of the County Clerk of Cherokee County on 7/22/10 against this Property. The Trustee knows of no other liens, claims, encumbrances, or interests of any other party in the Property.

4. Notice is hereby given to all interested parties that if no objections are filed as set forth herein, that Gerald R. Miller, Trustee herein, pursuant to Bankruptcy Rules 2002 (a)(2) and 6004 (a)(e)(1), proposes to sell, other than in the ordinary course of business, the above described Property to Jerry E. Hammons for the sum of \$45,000.00, free and clear of all liens, claims, encumbrances and interests of any party; provided, however, that the sale proceeds shall be subject to the lien of Jerry E. Hammons as set forth herein up to the amount of the Proof of Claim filed by Jerry E. Hammons in the amount of \$30,602.60.

5. The Trustee therefore requests that the Court enter an Order approving the sale of the Property herein described to Jerry E. Hammons for the sum of \$45,000.00, free and clear of all liens, claims, encumbrances and interests of any party.

WHEREFORE, the Trustee prays that Court vacate the previous order granted August 15, 2013, approving the sale of the following described property to Diana "Kaye" Hammons Callaway:

Undivided one-half interest in a tract of property located in the S/2 of the SW/4 of the NW/4 of Section 2, Township 17 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma, more particularly described as follows, to wit: Beginning at the NW corner of the SW/4 of the NW/4 of said Section 2; thence East 556 feet to the Point of Beginning; thence East 296 feet; thence South 296 feet; thence West 296 feet; thence North 296 feet to the Point of Beginning; a/k/a 13235 N. 536 Road, Tahlequah, OK

Further, that the Court enter an order approving the sale of the above described Property, free and clear of all liens, claims, encumbrances and interests of any party, to Jerry E. Hammons for the sum of \$45,000.00; provided, however, that the sale proceeds shall be subject to the lien of Jerry E. Hammons up to the amount of the Proof of Claim filed by Jerry E. Hammons in the amount of \$30,602.60.

GERALD R. MILLER, PC

s/Gerald R. Miller
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